



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: patent application of: )  
)  
Tamisha Clark et al. )  
)  
Docket No.: 3010-1091 )  
) Group Art Unit: 1774  
Serial No.: 10/783,910 )  
)  
Filed: February 20, 2004 )  
)  
For: MEDICAL DEVICE WITH ) Examiner: Jill M. Gray  
ADHERENT COATING, AND )  
METHOD FOR PREPARING SAME )

**REQUEST FOR A PRE-APPEAL BRIEF REVIEW**

Box AF  
Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Sir:

This is a Request for a Pre-Appeal Brief Review under the provisions of the Patent and Trademark Office's published rule for the same. The applicants believe that the currently rejection under 35 USC § 102(b) or alternatively 35 USC § 103 is clearly deficient, and that it should be withdrawn.

For purposes of this review, the applicants direct the attention of the panel to the remarks at pages 6-9 of the RESPONSE TO OFFICE ACTION dated December 26, 2006.

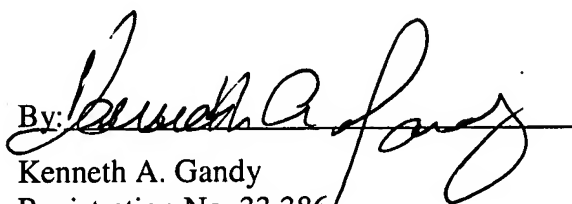
Further, in respect of the current Office Action, in support of maintaining the rejection against the amended claims, the Examiner argues that "...the examiner has

reason to believe that etched carbonaceous surfaces of the prior art includes *[sic]* oxygen-containing organic groups formed at positions at which fluorine atoms have been removed.” The basic rules pertaining to rejections based on inherent features of references are reviewed in the above-noted RESPONSE and thus will not be repeated here. It is clear, however, that the extension of the Palmero reference as quoted above is wholly unjustified. The Palmero reference does not even use the term “etched” or any derivative form thereof relative to treating its deposited fluorocarbon. The only place where an etch is mentioned is at the bottom of column 12, with respect treating the wire core. Nonetheless, the Examiner postulates that something in the Palmero reference teaches the removal of fluorine atoms from the formed fluorocarbon coatings and the subsequent formation of the claimed oxygen-containing groups. What processes in Palmero lead to such a removal of fluorine atoms? No analysis at all is given in the Office Action. In fact, to the contrary, the processes in Palmero are not for removing fluorine atoms, are not polymer etching processes, but rather are for depositing polymers. A simple statement that the Examiner has “reason to believe” that certain things are inherently happening in the Palmero reference is not sufficient to sustain the rejection under 35 USC § 102 or 103. The law requires that the inherency be certain, not a mere possibility. This in turn requires that an Examiner provide a some detailed technical analysis of why the reference inherently achieves a claimed structure. That simply was not accomplished in making the present rejection, and could not be based upon the limited teachings of Palmero -- which do not even teach any modification of

fluoropolymer surfaces. It is therefore submitted that the rejection is clearly deficient on its face as to all claims.

The applicants respectfully request that the panel withdraw the rejection and pass this application to allowance.

Respectfully Submitted,

By:   
Kenneth A. Gandy  
Registration No. 33,386  
Woodard, Emhardt, Moriarty, McNett &  
Henry, LLP  
111 Monument Circle, Suite 3700  
Indianapolis, Indiana 46204-5137  
(317) 634-3456